Executive Officer Delegated Decision Form

Decision Title: Coronavirus COVID-19: implementation of Care Act easements

Decision Date 09/04/2020

Decision Summary

1. The Council should implement the following Care Act easements in line with the Coronavirus Act 2020:
   
   a) Introduce the COVID-19 assessment process.
   
   b) Suspend routine Care Act reviews.
   
   c) Triage new referrals, and broker home care for high and medium risk individuals, with home care for low risk individuals to be deferred if required.
   
   d) Work with home care providers to triage existing home care packages, continue care for high and medium risk individuals, and suspend care for low risk individuals if required.
   
   e) Put in place a system of welfare checks for low risk individuals for whom home care has been deferred or suspended.
   
   f) That the Council review these recommendations every two weeks with the Principal Social Worker and seek to restore Care Act complaint services as soon as is reasonably possible.

Delegated Function
Delegation to a particular Chief Officer and/or Sub-Delegated Scheme

Delegated Power
General Delegations to all Senior Leadership Team Members

Category of Decision
Significantly affects individuals, communities or businesses

Public / Exempt
If the decision is exempt, please tick the relevant paragraph number. Hover over each number to reveal the Exemption Paragraph.

1 □ 2 □ 3 □ 4 □ 5 □ 6 □ 7 □ 8 □ 9 □ 10 □

Options Considered

2. One of the Council’s strategic objectives for management of the immediate impact of the coronavirus COVID-19 epidemic is to: ensure sustainability of adult social care during the coronavirus COVID-19 epidemic, and that planning
and actions to sustain adult social care link with planning and actions in the NHS. This is against a backdrop of increasing demand and reducing capacity due to staff absence as a result of sickness and self-isolation.

3. In order to achieve this we will need to:

   a) Streamline assessment arrangements in order to manage demand with reduced capacity and support the coronavirus COVID-19 hospital discharge pathway.

   b) Prioritise care so that the most urgent and serious needs can continue to be met.

   c) Reduce the risk of spreading infection by reducing staff-client contacts.

**Care Act easements**


   a) Local Authorities will not have to carry out detailed assessments of people’s care and support needs in compliance with pre-amendment Care Act requirements. However, they will still be expected to respond as soon as possible (within a timeframe that would not jeopardise an individual’s human rights) to requests for care and support, consider the needs and wishes of people needing care and their family and carers, and make an assessment of what care needs to be provided.

   b) Local Authorities will not have to carry out financial assessments in compliance with pre-amendment Care Act requirements. They will, however, have powers to charge people retrospectively for the care and support they receive during this period, subject to giving reasonable information in advance about this, and a later financial assessment.

   c) Local Authorities will not have to prepare or review care and support plans in line with the pre-amendment Care Act provisions. They will however still be expected to carry out proportionate, person-centred care planning which provides sufficient information to all concerned, particularly those providing care and support, often at short notice.

   d) The duties on Local Authorities to meet eligible care and support needs, or the support needs of a carer, are replaced with a power to meet needs. Local Authorities will still be expected to take all reasonable steps to continue to meet needs as now. In the event that they are unable to do so, the powers will enable them to prioritise the most pressing needs, for example enhanced support for people who are ill or self-isolating, and to temporarily delay or reduce other care provision.
5. The associated guidance published 31st March 2020 defines the steps local authorities should take before exercising the Care Act easements including that these should only be exercised when the workforce is significantly depleted, or demand increased to an extent that it is no longer reasonably practicable to comply with Care Act duties.

6. The decision to implement Care Act easements should be agreed by the Director of Adult Social Services in conjunction with or on the recommendation of the Principal Social Worker. The lead member must be involved. The Health and Wellbeing Board should be kept informed. The decision should also be fully informed by discussion with the Local NHS CCG leadership.

7. Local Authorities should have a record of the decision with evidence that was taken into account. Where possible the record should include the following:
   - The nature of the changes to demand or the workforce;
   - The steps that have been taken to mitigate against the need for this to happen;
   - The expected impact of the measures taken;
   - How the changes will help to avoid breaches of people’s human rights at a population level;
   - The individuals involved in the decision-making process; and
   - The points at which this decision will be reviewed.

8. Note that Care Act easements should be differentiated from decisions that need to be made in response to the Government’s guidance about social distancing. For example, it may be decided to close a service because it is no longer safe to keep people together in a building, however, this does not mean those people do not need the equivalent level of support at this time. In this example, staff might be asked to provide the equivalent level of support. The equivalent service might be an alternative, but it is to reduce the risk of breaching the social distancing guidance.

**COVID-19 assessment process**

9. There is insufficient capacity to maintain normal Care Act assessments and reviews due to:
   - Staff absence – currently around one third of staff are absent; and
   - A requirement to support the Coronavirus COVID-19 hospital discharge pathway.

10. Under the Coronavirus COVID-19 hospital discharge pathway developed with the local NHS, patients will be discharged to either:
   a) Simple and timely – with no support.
   b) Support at home – including low level support and equipment, as well as ‘Home First’ reablement, therapy and interim care services. ‘Home First’ capacity will be increased by building on the usual ‘Home First’ service
commissioned by the Council and CCGs and provided by Midlands Partnership Foundation NHS Trust (MPFT).

c) Community rehabilitation beds. These will be commissioned by the CCGs.

d) Long term care beds. These will be commissioned by the CCGs.

11. As well as supporting decision making on the most appropriate route for patient discharge, the Council’s other key contribution to the Coronavirus COVID-19 hospital discharge pathway is to take referrals and move people from ‘Home First’ services and community rehabilitation beds in order to maintain flow.

12. The Council will also need to maintain the usual contact and triage arrangements for people in the community, and make proportionate assessments where necessary.

13. The recommendation therefore is to implement “Stage 3” of the Care Act Easements (streamlining services under the Care Act easements) and introduce a COVID-19 assessment process for as long as the circumstances in paragraphs 10 and 11 continue. This would apply to referrals from Home First’ services and community rehabilitation beds as well as high priority referrals from the Staffordshire Cares contact centre. Low priority referrals from Staffordshire Cares will be delayed and will be completed when social work capacity is available.

14. The COVID-19 assessment process would involve a short assessment, which would capture just enough information, based on the Care Act domain, to make a decision about whether an individual needs care and the most appropriate care. This would avoid introducing delays into the COVID-19 hospital discharge pathway, and allow best use to be made of social work capacity. Assessments would be completed by phone in order to reduce the risk of spreading infection.

15. Individuals who need care would be referred to brokerage in the usual way, along with a brief care and support plan that would include sufficient information for providers to understand the care required. A Care Act compliant assessment and support plan along with a financial assessment would be completed at the first opportunity following the conclusion of the coronavirus COVID-19 epidemic. People’s financial contributions to their care would be backdated for the care they receive during the period from initiation to completion of the financial assessment.

16. Individuals who are assessed as being able to manage without regulated care during the coronavirus COVID-19 epidemic would be referred for support from the voluntary and community sector. They would be contacted at the at the first available opportunity following the conclusion of the coronavirus COVID-19 epidemic to determine whether they would wish to proceed to a Care Act compliant assessment.
17. Individuals who can manage without regulated care for a short period may be referred for support from the voluntary and community sector. They would be contacted at the at the first opportunity following the conclusion of the coronavirus COVID-19 epidemic to determine whether they still wish to proceed to a Care Act compliant assessment.

18. Routine Care Act reviews would be suspended, whilst urgent reviews, in the event that individuals who are receiving Council funded care services require immediate and significant changes to their care, would be maintained.

19. Duties in the Care Act relating to safeguarding adults at risk will continue to be discharged. Safeguarding activity will be prioritised to ensure that cases are investigated and resolved in a timely way proportionate to the severity of the concern. The Principal Social Worker will continue to oversee Safeguarding activity.

**Prioritising home care**

20. With the Coronavirus COVID-19 hospital discharge pathway, the greatest demand for new care services will be for home care. Home care providers however are reporting significant reductions in capacity due to staff sickness absence. Two thirds of home care providers have invoked business continuity plans, three have declared a high risk to business continuity even with plans enacted, and there is a sizeable backlog of people awaiting home care.

21. There is therefore a risk that demand for new home care packages from the COVID-19 hospital discharge pathway and urgent community cases exceeds capacity – and that this delays acute hospital discharges.

22. The Council is seeking to mitigate this by redeploying staff into home care, and by recruiting additional home care workers through the iCare campaign. However this is expected to offer only a partial mitigation.

23. The recommendation therefore is to prepare to implement stage 4 of the Care Act Easements (Prioritisation under Care Act Easements) and to implement these as necessary in order to ensure that there is sufficient home care capacity for high and medium risk individuals. The Council would generate additional capacity by prioritising use of home care and reserving it for high and medium risk individuals as defined by the prioritisation tool in Appendix 1. Low risk individuals would be able to manage without regulated care during the coronavirus COVID-19 epidemic without detriment to their human rights as defined by the European Convention on Human Rights.

24. Prioritisation would be achieved by:

   a) Triaging new referrals through the COVID-19 assessment process, and brokering home care for medium and high risk individuals, with home care for low risk individuals deferred. As above they will be contacted at the at the first opportunity following the conclusion of the coronavirus COVID-19 epidemic to determine whether they still wish to proceed to a Care Act compliant assessment.
b) Working with home care providers to triage existing home care packages, continuing care for high and medium risk individuals, and suspending care for low risk individuals. This is expected to include up to 1500 people from a total of 3,500 receiving Council funded home care. These people would be notified individually of the changes to their care and given an opportunity to raise any concerns. Packages will only be suspended in those areas where this is necessary to free up capacity for new high and medium risk individuals and support hospital discharges.

c) A system of welfare checks would be put in place for low risk individuals for whom home care has been deferred or suspended. These might include occasional care visits, voluntary and community sector support, and/or telephone contacts.

d) The Principal Social Worker will review a sample of those packages deferred suspended to ensure that there is no detriment to their human rights as defined by the European Convention on Human Rights.

Assessment of recommendations
25. Appendix 2 summarises the evidence for the recommendations including:
   • The impact of coronavirus COVID-19 on demand;
   • The impact of coronavirus COVID-19 on the workforce;
   • Steps taken to date to mitigate the impact prior to implementing Care Act easements;


27. Appendix 4 includes a Community Impact Assessment which demonstrates the expected impact of the measures and how the Council will avoid breaches of people’s human rights at a population level.

Consultation Process
28. Approval for these recommendations has been given by:
   • Leader of the Council.
   • Deputy Leader and Cabinet Member for Health, Care and Well-being.
   • Director of Adult Social Services.
   • Principal Social Worker.

29. The recommendations have already been discussed with local NHS leadership including the Clinical Commissioning Groups.

30. The following have been notified:
   • Health and Well-being Board co-chairs.
   • Healthwatch

31. Once approved the following will be notified:
   • Department of Health and Social Care.
Electoral Divisions Affected

All

Name of Executive Officer Making Decision: Richard Harling, Director of Health and Care

Community Impact Assessment

Key Issues

The proposals will impact on older people, people with learning disabilities, people with physical disabilities, and people with mental health conditions seeking an assessment for care and for people in receipt of home care.

Arrangements are only temporary and are only in place for as long as the period of the coronavirus COVID-19 epidemic continues.

A system of welfare checks will be put in place for low risk individuals for whom home care has been deferred or suspended. These might include occasional care visits, voluntary and community sector support, and/or telephone contacts.

Resource and Value for Money Analysis

The proposals can be delivered within the available resource, drawing on the COVID-19 funding from the government where necessary.

Risk Analysis

The proposals have been recommended to enable the Council to ensure people with the highest level of risk are assessed and can access home care during the period of the coronavirus COVID-19 epidemic.

Arrangements are only temporary and are only in place for as long as the period of the coronavirus COVID-19 epidemic continues.

Legal Analysis

The report describes the Care Act Easements at paragraph 4

Implementation

Is any implementation action required?

Yes ☐ No ☒

Submission on Mod.Gov

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# Appendix 1: prioritisation tool for home care

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<tr>
<th></th>
<th>LOW</th>
<th>MEDIUM</th>
<th>HIGH</th>
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<tbody>
<tr>
<td><strong>Living Arrangements</strong></td>
<td>Has family member(s) who live nearby and can meet all care needs.</td>
<td>Has family member(s) who can meet some of the care needs.</td>
<td>Does not have any family members who can meet care needs.</td>
</tr>
<tr>
<td><strong>Medication</strong></td>
<td>No medication needs.</td>
<td>Medication required – not time critical.</td>
<td>Critical health need – time critical medication, e.g. Insulin, medication administered via PEG, epilepsy medication.</td>
</tr>
<tr>
<td><strong>Equipment/Moving/Positioning</strong></td>
<td>No equipment.</td>
<td>Low level equipment - single carer call - adult can use equipment independently or needs can be met in bed.</td>
<td>Person's care needs cannot be met without equipment.</td>
</tr>
<tr>
<td><strong>Behaviours that Challenge</strong></td>
<td>None.</td>
<td>Occurs daily and are managed with verbal de-escalation.</td>
<td>1:1 (or above) support required at all times, due to high risk behaviours causing a risk to self or others. Interventions needed include physical ones and occur at least daily.</td>
</tr>
<tr>
<td><strong>Dietary Requirements</strong></td>
<td>Able to feed self - may require support with shopping.</td>
<td>Is supported to prepare food and requires some supervision and prompts to eat.</td>
<td>Modified diets, thickened drinks, PEG fed, choking risk. Unable to feed self.</td>
</tr>
<tr>
<td><strong>Skin Integrity</strong></td>
<td>No issues.</td>
<td>Lower level wound (e.g. grade 1-2) or no current wounds but high risk of developing them.</td>
<td>Has current skin breakdown (e.g. grade 3 or 4) and have been graded at significant risk of further breakdown. New wounds with no treatment identified.</td>
</tr>
<tr>
<td><strong>Falls Risk</strong></td>
<td>No falls risk.</td>
<td>Occasional falls, mainly during periods of illness - has access to (and can use) call alarm.</td>
<td>Recurrent falls - high risk and no support available.</td>
</tr>
<tr>
<td><strong>Continence Care</strong></td>
<td>Fully continent or can manage continence needs independently.</td>
<td>Episodes of incontinence that require intervention from others.</td>
<td>Always doubly incontinent and requires intervention to meet continence needs.</td>
</tr>
<tr>
<td><strong>Personal Assistant</strong></td>
<td>PA used for social contact only.</td>
<td>PA used for some practical care tasks such as meal preparation and/or some personal care needs, but this can be met by another person.</td>
<td>PA used to meet all personal care needs, no available alternative support.</td>
</tr>
<tr>
<td><strong>End of Life</strong></td>
<td>Not at imminent end of life.</td>
<td>End of life pathway but not within the last few days of life.</td>
<td>Within the last few days of life.</td>
</tr>
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Appendix 2: evidence for the recommendations

2.1a Impact of coronavirus COVID-19 on the workforce – social care

In social care one third of staff are currently absent with a breakdown as shown in Table A2.1

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<thead>
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<th>WTE</th>
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<tr>
<td>Total social care staff (Council and MPFT)</td>
</tr>
<tr>
<td>Staff available to work (normal location or at home)</td>
</tr>
<tr>
<td>Staff not available to work (sick or annual leave)</td>
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2.1b Impact of coronavirus COVID-19 on the workforce – home care

Home care providers however are reporting significant reductions in capacity due to staff sickness absence. Two thirds of home care providers have invoked business continuity plans, three have declared a high risk to business continuity even with plans enacted.

2.2a Demand for services - social care

Social care staff have been redeployed to support the coronavirus COVID-19 hospital discharge pathway - social workers working on behalf of the Council have been deployed to multi-disciplinary teams in acute hospitals to support decision making to determine the most appropriate route for patient discharge.

It is anticipated that demand on social care services will increase further as:
- Hospital admissions rise as a result of coronavirus COVID-19 – this will increase the number of discharges and the demands from hospital discharge pathway;
- Carers become unwell or have to self-isolate and are unable to provide care – resulting in more high priority referrals from Staffordshire Cares; and
- Self-isolation results in safeguarding concerns - e.g. domestic abuse.

2.2b Demand for services – home care

There is a sizeable backlog of people awaiting home care:
- Around 92 people in 1,000 hours in 'Home First' services;
- 3 people in acute hospitals and 20 in community hospitals; and
- 51 high and medium risk in the community who currently have no care.

This is likely to increase as hospital admissions rise as a result of coronavirus COVID-19 – this will increase the number of discharges and the demands from hospital discharge pathway.

2.3a Steps taken to date to mitigate the impact prior to implementing Care Act easements – social care
The following steps have been taken:

- An Incident Management Team has been established to review demand and staffing levels daily, to enable resource to reallocated.
- Social work staff have been requested to cancel leave in April and May;
- Council staff providing non-critical roles have been redeployed to support social workers (e.g. call answering, administration); and
- Work has been rearranged, and technology solutions implemented, to enable staff required to self-isolate to complete work at home.
- In the event that demand for one client group or team increases at a greater rate than another team, then arrangements have been put in place to enable staff to transfer between teams, including working across the Council and MPFT.
- All project work related to performance and change has been ceased.

2.3b Steps taken to date to mitigate the impact prior to implementing Care Act easements – home care

The following steps have been taken:

- An Incident Management Team has been established to review demand and capacity daily.
- Home care providers are being phoned on a daily basis to explore business continuity arrangements.
- Home care providers have been offered additional funding and a reduction in performance monitoring to help manage cost pressures during the coronavirus COVID-19 epidemic.
- Council staff providing non-critical roles have been redeployed to support home care through a rapid programme of training and mobilisation.
- The Council has launched an iCare campaign to recruit, train and mobilise additional home care workers.
Appendix 3: analysis of recommendations against the COVID-19 Ethical Framework for Adult Social Care

<table>
<thead>
<tr>
<th>Respect</th>
<th>Prioritising home care</th>
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| • The assessment process will continue to provide people with the opportunity to express their views and preferences, however the ability for the Council to continue to meet this choice may be restricted.  
• Where a person may lack capacity the COVID-19 assessment process will continue to ensure that a person’s best interests and support needs are considered by those who are responsible or have relevant legal authority to decide on their behalf  
• The Council will communicate that a full assessment will be available at the end of the crisis. | • The ability to meet a person’s choice of home care may be restricted due to the available resource. Following the end of the coronavirus COVID-19 epidemic all assessments will be reviewed. |

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<tr>
<th>Reasonableness</th>
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| • The CIA demonstrates that the Council has considered the impact of its decision to implement the COVID-19 Assessment form.  
• It would not be reasonable to continue to operate the normal Care Act assessment as the Council would have insufficient resource to deliver this function and people would be required to wait long periods of time for an assessment. | • It would not be reasonable for people at low risk to continue to receive home care whilst new people at high and medium risk were unable to access home care. Also this would delay hospital discharges. |

<table>
<thead>
<tr>
<th>Minimising harm</th>
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<tr>
<td>• The use of COVID-19 assessment process enables people to receive assessments without the need to see people face-to-face therefore supports social distancing.</td>
<td>• The prioritisation of home care will minimise the risk of harm to people at high and medium risk due to insufficient resources to meet their needs.</td>
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<tr>
<th>Inclusiveness</th>
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<td>• The COVID-19 assessment process will apply for</td>
<td>• Home care providers and the Council’s adult</td>
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<tr>
<td>COVID-19 assessment process</td>
<td>Prioritising home care</td>
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| all care groups and will ensure people continue to be involved in their assessment process. | social care teams have prioritised people in receipt of home care  
• Individuals and families will be notified individually of the changes to their care and given an opportunity to raise any concerns. |

**Accountability**

• SLT, Cabinet and NHS partners have been consulted on this decision, and a CIA has been completed.  
• Guidance has been completed for staff to enable them to work in the new arrangements.  
• SLT, Cabinet and NHS partners have been consulted on this decision, and a CIA has been completed.

**Flexibility**

• The arrangements are being monitored daily and will continue to evolve to respond to the changing circumstances.  
• The available home care is being monitored daily to ensure that we can meet the needs of people at high and medium risk.

**Proportionality**

• The COVID-19 assessment enables the Council to assist people with care and support needs within the resource available.  
• The prioritisation of home care enables the Council to assist people with care and support needs within the resource available.

**Community**

• The COVID-19 assessment process utilises the role of voluntary and community sector (for example referring people for the delivery of food parcels).  
• Individuals who can manage without regulated care for a short period may be referred for support from the voluntary and community sector.  
• A system of welfare checks will be put in place for low risk individuals for whom home care has been deferred of suspended. These might include occasional care visits, voluntary and community sector support, and / or telephone contacts.